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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,595	07/03/2002	Gary Anthony Jubb	M8540/271078	9455

23370 7590 09/29/2003

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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT PAPER NUMBER

1755

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,595

Applicant(s)

JUBB ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 1 & 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 8, & 9. 6) ☐ Other:

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DETAILED ACTION

Claim Objections

Claims 1 and 5 are objected to because of the following informalities: minor punctuation errors. Appropriate correction is required.

Claim 1 is objected to due to the extra period at the end of sentence.

Claim 5 is objected to due to the missing period at the end of the sentence.

Drawings

New corrected drawings are required in this application because lines are not uniformly thick and well defined. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olds et al., U.S. Patent 5,714,421.

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Olds et al. teach a glass fiber having overlapping ranges of components with instant claims 1-13. See Abstract, column 3, lines 9-25, column 25, lines 40-57, and column 25, line 65 to column 26, line 38.

Olds et al. fail to teach any anticipatory examples or compositional ranges sufficiently specific to anticipate the instant invention. However, Olds et al. teach ranges of components, which overlap the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prime facie* obviousness. See MPEP 2144.05. Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to select from the overlapping portions of weight percent ranges, which also overlap the mole percent ranges as recited in claim 1.

The reference fails to specifically teach a maximum use temperature of instant claim 1, however, one of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the same maximum use temperature as recited in claim 1.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwai, Japanese Patent Publication JP 51-13819.

Iwai teaches a glass fiber having overlapping ranges of components with instant claims 1-13. See Derwent Abstract.

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Iwai fails to teach any anticipatory examples or compositional ranges sufficiently specific to anticipate the instant invention. However, Iwai teaches ranges of components, which overlap the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prime facie* obviousness. See MPEP 2144.05. Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to select from the overlapping portions of weight percent ranges, which also overlap the mole percent ranges as recited in claim 1.

The reference fails to specifically teach a maximum use temperature of instant claim 1, however, one of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the same maximum use temperature as recited in claim 1.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jubb et al., U.S. Patent 5,994,247.

Jubb et al. teach a glass fiber having overlapping ranges of components with instant claims 1-13. See column 4, lines 18-32.

Jubb et al. fail to teach any anticipatory examples or compositional ranges sufficiently specific to anticipate the instant invention. However, Jubb et al. teach ranges of components, which overlap the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

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Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prime facie* obviousness. See MPEP 2144.05. Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to select from the overlapping portions of weight percent ranges, which also overlap the mole percent ranges as recited in claim 1.

The reference fails to specifically teach a maximum use temperature of instant claim 1, however, one of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the same maximum use temperature as recited in claim 1.

Conclusion

The additional references cited on the 892 have been cited as art of interest since they are cumulative to or less than the art relied upon in the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 703-305-0124. The examiner can normally be reached on 8:30am to 6:00 pm with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EAB

16 September 2003



DAVID SAMPLE
PRIMARY EXAMINER